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10 Attorneys for Defendant Wells Fargo Bank, N.A.

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 MITZIE PEREZ, ANDRES ACOSTA,
15 SERGIO BARAJAS, TERESA DIAZ
16 VEDOY, VICTORIA RODAS, and SAMUEL
16 TABARES VILLAFUERTE, individually and
17 on behalf of all others similarly situated,

17 Plaintiffs,

18 Case No. 3:17-cv-454-MMC (JCS)

19 **WELLS FARGO'S ADMINISTRATIVE
MOTION FOR LEAVE TO INCREASE
PAGE LIMIT FOR WELLS FARGO'S
MOTION FOR SUMMARY JUDGMENT**

20 v.

21 WELL'S FARGO BANK, N.A.,

22 Defendants.

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1 **WELLS FARGO'S ADMINISTRATIVE MOTION FOR LEAVE TO INCREASE PAGE**
 2 **LIMIT FOR WELLS FARGO'S MOTION FOR SUMMARY JUDGMENT**

3 Pursuant to Civil Local Rule 7-2(b) and 7-11, Defendant Wells Fargo Bank, N.A. ("Wells
 4 Fargo") respectfully moves the Court to increase the page limit from 25 pages to 45 pages for
 5 Wells Fargo's Motion for Summary Judgment, which will be filed on or before December 16,
 6 2019. Wells Fargo will agree to a reciprocal number of pages for Plaintiffs' Opposition. This
 7 Motion is supported by the Declaration of K. Issac deVyver.

8 There is good cause for the Court to grant Wells Fargo leave to file a Motion for Summary
 9 Judgment not to exceed 45 pages. This case, which has been pending for almost three years and
 10 has 294 docket entries, is a complex one. Named Plaintiffs Perez, Rodas, Barajas, Diaz Vedoy,
 11 Villafuerte, and Acosta, each of whom is a DACA recipient, brought this class action lawsuit
 12 accusing Wells Fargo of lending discrimination in violation of 42 U.S.C. § 1981 ("Section 1981")
 13 and the Unruh Civil Rights Act, California Civil Code §§ 51 and 52 *et seq.* ("Unruh"). Plaintiffs
 14 are challenging Wells Fargo's lending policies and underwriting guidelines as they relate to four
 15 different lines of business: student lending, credit card, small business lending, and personal lines
 16 and loans.

17 Wells Fargo intends to move for summary judgment on each of the six Plaintiff's claims
 18 and on Plaintiffs' overarching theory that Wells Fargo's lending policies are discriminatory
 19 against DACA recipients. In essence, Plaintiffs have brought six individual lawsuits and, in order
 20 to explain the reasons that Wells Fargo is entitled to summary judgment, the bank must spend 1-3
 21 pages per Plaintiff outlining: (1) the circumstances around each Plaintiff's application for credit
 22 (and, in some cases, certain Plaintiffs never actually applied), and (2) why each Plaintiff failed to
 23 show that he or she was otherwise qualified for the credit allegedly sought from Wells Fargo or
 24 that other, similarly situated non-DACA recipients were provided credit on terms Plaintiffs should
 25 have received.

1 In addition, because Plaintiffs have challenged Wells Fargo's lending policies and
2 underwriting guidelines as they relate to four different lines of business, the bank needs to explain
3 how the policies and guidelines for each line of business operate and why they do not discriminate
4 against DACA recipients. Throughout the course of this case, Plaintiffs have sought to depict
5 Wells Fargo's lending policies and underwriting guidelines as a single policy that "categorically
6 exclude" DACA recipients from applying for certain types of credit. Not so. There are multiple
7 lending policies and underwriting guidelines for each of the four lines of business and Wells Fargo
8 requires additional pages to show that Plaintiffs are inaccurately portraying the policies and
9 guidelines, and explain how those policies and guidelines do in fact allow for lending all types of
10 credit, both secured and unsecured, to DACA recipients. Wells Fargo also needs the additional
11 pages to provide examples of when and how Wells Fargo has extended unsecured credit to DACA
12 recipients, including that Wells Fargo extended an unsecured credit card to one of the named
13 Plaintiffs, Victoria Rodas, after she became a DACA recipient.

14 Relatedly, in addition to the fact that Wells Fargo's lending policies and underwriting
15 guidelines are not facially discriminatory, Wells Fargo requires additional pages to explain why its
16 policies and guidelines satisfy Section 1981's legitimate non-discriminatory business reason
17 defense and Unruh's business justification and compelling public policy defense. While those
18 defenses are similar, each requires a different analysis employing a separate legal standard.

19 Finally, Wells Fargo needs additional pages to explain Deferred Action for Childhood
20 Arrivals, or DACA, and the lending risks associated with DACA. Although DACA is regularly
21 discussed in the media, what DACA is, and the rights it does (or does not) provide to recipients, is
22 generally misunderstood. Additional pages are essential for Wells Fargo explain DACA and how
23 a borrower's DACA status impacts the credit analysis relating to whether and how to extend credit
24 to a DACA recipient. There is no dispute that the Equal Credit Opportunity Act (ECOA) and its
25 implementing regulations allow lenders, like Wells Fargo, to inquire about, and consider, a
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1 borrower's permanence of residence and immigration status when deciding whether to extend
 2 credit. Wells Fargo requires additional pages to explain how the bank's policies comply with
 3 ECOA and, at the same time, Section 1981 and Unruh.

4 All of these reasons demonstrate good cause for the Court to increase the page limit from
 5 25 pages to 45 pages for Wells Fargo's Motion for Summary Judgment. *See Garcia v. Soule*, No.
 6 C07-0438 MMC (PR), 2010 WL 728041, at *1 n.1 (N.D. Cal. Feb. 26, 2010) (Chesney, J.)
 7 (granting motion to exceed page limits for good cause shown).

8 Wells Fargo met and conferred with Plaintiffs by both email and telephone on November
 9 5, 2019, about the relief requested herein, but Plaintiffs declined to consent. At that time,
 10 Plaintiffs also indicated that Wells Fargo should be prohibited from moving for summary
 11 judgment at all until after the Court rules on Plaintiffs' Motion for Class Certification. There is,
 12 however, no basis for Plaintiffs' position. From the very beginning of this case, Wells Fargo has
 13 indicated that it would move for summary judgment prior to, or contemporaneously with,
 14 Plaintiffs' Motion for Class Certification. Wells Fargo raised this very issue at the initial case
 15 management conference on September 22, 2017, and Plaintiffs agreed that Wells Fargo could
 16 move for summary judgment *before* the Court set a dispositive motion deadline. To that end, the
 17 parties memorialized their agreement in parties' Joint Pretrial Preparation Order, which
 18 specifically provides that "no party shall be prohibited from filing a motion for summary judgment
 19 before the Court sets a deadline[.]" D.E. 84. That memorialization of the parties' agreement,
 20 which the Court endorsed, has been in every subsequent Joint Pretrial Preparation Order. D.E.
 21 214 (Revised Joint Pretrial Preparation Order); 243 (Order Extending Joint Pretrial Preparation
 22 Order); 246 (Order Extending Joint Pretrial Preparation Order); 275 (Order Regarding Expert
 23 Discovery Cutoff and Class Certification Briefing Schedule, Continuing Hearing, Revised Joint
 24 Pretrial Preparation Order);
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28 For the foregoing reasons, Wells Fargo respectfully requests that the Court increase the

